

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0359-MWD-E TCEQ ID: RN101920569 CASE NO.: 32888
RESPONDENT NAME: City of De Leon

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of De Leon WWTP, approximately 1,000 feet south of State Highway 6 and 4,000 feet east of State Highway 16, east of the City of De Leon, Comanche County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 30, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5806; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: The Honorable Danny Owen, Mayor, City of De Leon, Post Office Box 318, De Leon, Texas 76444 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 8, 2007</p> <p>Date of NOE Relating to this Case: February 27, 2007 (NOE)</p> <p>Background Facts: This was a routine records review. Three violations were documented.</p> <p>WATER</p> <p>1) Failure to comply with permitted effluent limitations [30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. WQ0010078001, Effluent Limitations and Monitoring Requirement No. 1, 3, and 6].</p> <p>2) Failure to submit the DMR annual sludge disposal report by September 1 of each year as required by the permit. Specifically, the annual sludge report for the sludge monitoring period ending July 31, 2006 was due by September 1, 2006 [30 TEX. ADMIN. CODE § 305.125(17), and TPDES Permit No. WQ0010078001, Sludge Provisions, Reporting Requirements].</p> <p>3) Failure to submit the effluent DMR parameter data. Specifically, the Total Ammonia Nitrogen daily average (lbs/day) at Outfall 001 for the monitoring period of November 30, 2005 was not reported [30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010078001, Monitoring and Reporting Requirements, Section 1].</p>	<p>Total Assessed: \$9,945</p> <p>Total Deferred: \$1,989 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$7,956</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the City has contracted with Enprotec / Hibbs & Todd engineering company to prepare a Preliminary Engineering Report ("PER") detailing the options available and estimated construction cost for improvements to the City's existing wastewater treatment plant ("WWTP") in accordance with USDA Rural Development program guidelines.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Submit the revised effluent DMR for November 2005 to indicate the total ammonia nitrogen daily average at Outfall 001; and</p> <p>ii. Submit the annual sludge disposal reports for the monitoring period ending July 31, 2006.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a; and</p> <p>c. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010078001.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

DATES

Assigned
PCW

5-Mar-2007
9-Mar-2007

Screening

9-Mar-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent City of De Leon
Reg. Ent. Ref. No. RN101920569
Facility/Site Region 3-Abilene

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 32888
Docket No. 2007-0359-MWD-E
Media Program(s) Water Quality
Multi-Media

No. of Violations 3
Order Type 1660
Enf. Coordinator J. Craig Fleming
EC's Team EnforcementTeam 4

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$5,100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

110% Enhancement

Subtotals 2, 3, & 7

\$5,610

Notes A 110% enhancement is recommended for having 21 NOVs for self reported effluent data, and one NOV for same or similar violations in the past 5 years.

Culpability

No

0% Enhancement

Subtotal 4

\$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Before NOV NOV to EDPRP/Settlement Offer
Extraordinary
Ordinary
N/A X (mark with x)

Notes The Respondent does not meet the good faith criteria.

0% Enhancement*

Subtotal 6

\$0

Total EB Amounts \$101
Approx. Cost of Compliance \$2,300

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal

\$10,710

OTHER FACTORS AS JUSTICE MAY REQUIRE

-7%

Adjustment

-\$765

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Recommended reduction in the penalty so that monthly reported effluent violations do not overly-impact the penalty.

Final Penalty Amount

\$9,945

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$9,945

DEFERRAL

20%

Reduction

Adjustment

-\$1,989

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$7,956

Screening Date 9-Mar-2007

Docket No. 2007-0359-MWD-E

PCW

Respondent City of De Leon

Policy Revision 2 (September 2002)

Case ID No. 32888

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101920569

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	22	110%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 110%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

A 110% enhancement is recommended for having 21 NOVs for self reported effluent data, and one NOV for same or similar violations in the past 5 years.

Total Adjustment Percentage (Subtotals 2, 3, & 7)

110%

Screening Date 9-Mar-2007

Docket No. 2007-0359-MWD-E

PCW

Respondent City of De Leon

Policy Revision 2 (September 2002)

Case ID No. 32888

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101920569

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. WQ0010078001, Effluent Limitations and Monitoring Requirement No. 1, 3, and 6

Violation Description Failed to comply with permitted effluent limitations. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand ("BOD") and ammonia nitrogen ("NH3-N") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow, dissolved oxygen ("DO"), and pH values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

241 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$83

Violation Final Penalty Total \$7,800

This violation Final Assessed Penalty (adjusted for limits) \$7,800

Economic Benefit Worksheet

Respondent City of De Leon
Case ID No. 32888
Reg. Ent. Reference No. RN101920569
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description No commas or \$						

Delayed Costs

Equipment			0.0	\$0	\$0	\$0
Buildings			0.0	\$0	\$0	\$0
Other (as needed)			0.0	\$0	\$0	\$0
Engineering/construction			0.0	\$0	\$0	\$0
Land			0.0	\$0	n/a	\$0
Record Keeping System			0.0	\$0	n/a	\$0
Training/Sampling			0.0	\$0	n/a	\$0
Remediation/Disposal			0.0	\$0	n/a	\$0
Permit Costs			0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	1-Nov-2006	1-Sep-2007	0.8	\$83	\$83

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. The Date Required was the date the noncompliances started. The Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.0	\$0	\$0	\$0
Personnel			0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.0	\$0	\$0	\$0
Supplies/equipment			0.0	\$0	\$0	\$0
Financial Assurance [2]			0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.0	\$0	\$0	\$0
Other (as needed)			0.0	\$0	\$0	\$0

Notes for AVOIDED costs

NA

Approx. Cost of Compliance

\$2,000

TOTAL

\$83

Screening Date 9-Mar-2007

Docket No. 2007-0359-MWD-E

PCW

Respondent City of De Leon

Policy Revision 2 (September 2002)

Case ID No. 32888

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101920569

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17), and TPDES Permit No. WQ0010078001, Sludge Provisions, Reporting Requirements

Violation Description

Failed to submit the DMR annual sludge disposal report by September 1 of each year as required by the permit. Specifically, the annual sludge report for the sludge monitoring period ending July 31, 2006 was due by September 1, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

The respondent failed to meet 100% of the rule requirement.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

190 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$1,000

One annual event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$1,950

This violation Final Assessed Penalty (adjusted for limits) \$1,950

Economic Benefit Worksheet

Respondent City of De Leon
Case ID No. 32888
Reg. Ent. Reference No. RN101920569
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$250	1-Sep-2006	1-Oct-2007	1.1	\$14	n/a	\$14

Notes for DELAYED costs

The approximate cost to submit the annual 2006 sludge reports. The Date Required was the date required by the facility's permit to submit the annual sludge reports. The Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

NA

Approx. Cost of Compliance

\$250

TOTAL

\$14

Screening Date 9-Mar-2007

Docket No. 2007-0359-MWD-E

PCW

Respondent City of De Leon

Policy Revision 2 (September 2002)

Case ID No. 32888

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101920569

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010078001, Monitoring and Reporting Requirements, Section 1

Violation Description Failed to submit the effluent DMR parameter data. Specifically, the Total Ammonia Nitrogen daily average (lbs/day) at Outfall 001 for the monitoring period of November 30, 2005 was not reported.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

Most, but not all, of a permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

505 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$195

This violation Final Assessed Penalty (adjusted for limits) \$195

Economic Benefit Worksheet

Respondent City of De Leon
Case ID No. 32888
Reg. Ent. Reference No. RN101920569
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$50	20-Dec-2005	1-Oct-2007	1.8	\$4	n/a	\$4

Notes for DELAYED costs

The approximate cost to submit the revised monthly DMR. The Date Required was the date required by the facility's permit to submit the revised monthly November 2005 DMR. The Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

NA

Approx. Cost of Compliance

\$50

TOTAL

\$4

Effluent Violation Table
City of De Leon
TPDES Permit No. WQ0010078001 (Outfall 001)
Docket No. 2007-0359-MWD-E

Permitted Effluent Limits	Monitoring Period End Date							
	November 2005	February 2006	March 2006	April 2006	June 2006	August 2006	Sept. 2006	October 2006
pH Max. Limit of 9.0 Standard Units	C	C	C	C	C	9.36	9.31	9.33
DO Monthly Min. Limit of 4.0 (in mg/L)	C	C	C	C	3.0	C	C	C
BOD Daily Avg. Limit of 30 (in mg/L)	42	35.25	37.5	33.75	C	C	C	C

Avg. = average	mg/L = milligrams per Liter	pH = standard unit	DO = Dissolved Oxygen
C = compliant	Min. = minimum	Max. = Maximum	BOD = Biochemical Oxygen Demand (5 day)

Compliance History

Customer/Respondent/Owner-Operator:	CN600244362	City of De Leon	Classification: AVERAGE	Rating: 3.34
Regulated Entity:	RN101920569	CITY OF DE LEON	Classification: AVERAGE	Site Rating: 3.34
ID Number(s):	WASTEWATER	PERMIT	WQ0010078001	
	WASTEWATER	PERMIT	TPDES0054844	
	WASTEWATER	PERMIT	TX0054844	
	WASTEWATER LICENSING	LICENSE	WQ0010078001	
Location:	Approximately 1,000 feet south of State Highway 6 and 4,000 feet east of State Highway 16, east of the City of De Leon in Comanche County, Texas.		Rating Date: September 01 06 Repeat Violator: NO	
TCEQ Region:	REGION 03 - ABILENE			
Date Compliance History Prepared:	March 08, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 08, 2002 to March 08, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	J. Craig Fleming		Phone:	(512) 239-5806

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
N/A

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	04/05/2002	(187172)
2	04/05/2002	(187169)
3	04/05/2002	(187147)
4	04/05/2002	(187145)
5	04/26/2002	(283326)
6	04/29/2002	(187151)
7	03/03/2004	(307711)
8	03/08/2004	(307712)
9	03/08/2004	(307713)
10	03/08/2004	(307715)
11	03/08/2004	(307717)
12	03/08/2004	(307718)
13	03/08/2004	(307720)
14	03/08/2004	(307721)
15	03/08/2004	(307723)
16	03/08/2004	(307724)
17	03/08/2004	(307725)
18	03/08/2004	(307726)
19	03/08/2004	(307727)

20	03/08/2004	(307728)
21	03/08/2004	(307729)
22	03/08/2004	(307730)
23	03/08/2004	(307731)
24	03/08/2004	(307732)
25	03/08/2004	(307733)
26	03/08/2004	(307734)
27	03/08/2004	(307735)
28	03/08/2004	(307736)
29	03/24/2004	(307714)
30	06/06/2004	(307716)
31	07/06/2004	(307719)
32	07/06/2004	(307722)
33	09/27/2004	(356982)
34	09/27/2004	(356983)
35	11/10/2004	(384599)
36	12/03/2004	(384600)
37	12/23/2004	(384601)
38	03/14/2005	(384598)
39	04/07/2005	(422537)
40	10/11/2005	(473362)
41	10/11/2005	(473363)
42	10/11/2005	(473358)
43	10/11/2005	(473359)
44	10/11/2005	(473360)
45	10/11/2005	(473361)
46	10/28/2005	(473364)
47	11/17/2005	(473365)
48	04/05/2006	(501514)
49	04/05/2006	(501515)
50	04/05/2006	(501519)
51	04/05/2006	(501520)
52	05/08/2006	(461640)
53	05/15/2006	(501516)
54	05/19/2006	(501517)
55	06/29/2006	(501518)
56	07/31/2006	(523763)
57	08/04/2006	(489994)
58	02/27/2007	(539841)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date	03/31/2002	(187151)	
Self Report?	YES		Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	04/30/2002	(307717)	
Self Report?	YES		Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	08/31/2002	(307727)	
Self Report?	YES		Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	10/31/2002	(307731)	
Self Report?	YES		Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	01/31/2003	(307711)	
Self Report?	YES		Classifi Moderate

Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date	02/28/2003 (307713)	
Self Report?	YES	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date	04/30/2003 (307718)	
Self Report?	YES	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date	04/30/2004 (307719)	
Self Report?	YES	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date	10/31/2004 (384600)	
Self Report?	YES	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date	02/28/2005 (422537)	
Self Report?	YES	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date	03/31/2005 (473358)	
Self Report?	YES	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date	06/30/2005 (473361)	
Self Report?	YES	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date	11/30/2005 (501519)	
Self Report?	YES	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date	02/28/2006 (501515)	
Self Report?	YES	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date	03/31/2006 (501516)	
Self Report?	YES	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date	04/30/2006 (501517)	
Self Report?	YES	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date	05/05/2006 (461640)	
Self Report?	NO	Classifi Moderate
Citation:	30 TAC Chapter 317 317.4(a)(8)	
Description:	Failure to provide an annual certification of the reduced pressure	

backflow assembly (RPBA) on the public water supply line located at the wastewater treatment plant.

Self Report?	NO	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov:	PERMIT WQ0010078-001	
Description:	Failure to submit an annual sludge report (September 04 thru August 05) to the TCEQ Regional Office by September 1, 2005.	
Self Report?	NO	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov:	PERMIT WQ0010078-001	
Description:	Failure to provide pond liner certifications in accordance with permit	
Self Report?	NO	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov:	PERMIT WQ0010078-001	
Description:	Failure to meet permit effluent limits for CBOD.	
Self Report?	NO	Classifi Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.11(b)	
Description:	Failure to meet the analytical hold time for the analysis of pH.	
Self Report?	NO	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov:	PERMIT WQ0010078-001	
Description:	Failure to provide daily inspection records of the wastewater treatment plant by a certified operator.	
Self Report?	NO	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov:	PERMIT WQ0010078-001	
Description:	Failure to correctly calculate loading values for the discharge monitoring	
Self Report?	NO	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov:	PERMIT WQ0010078-001	
Description:	Failure to correctly report effluent flow data on discharge monitoring	
Date	06/30/2006 (523763)	
Self Report?	YES	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date	08/30/2006	
Self Report?	YES	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date	09/30/2006	
Self Report?	YES	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date	10/31/2006 (523763)	
Self Report?	YES	Clas Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date	11/30/2006 (523763)	
Self Report?	YES	Classifi Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
	TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF DE LEON
RN101920569**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0359-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of De Leon ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment plant located approximately 1,000 feet south of State Highway 6 and 4,000 feet east of State Highway 16, east of the City of De Leon in Comanche County, Texas (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about March 4, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nine Thousand Nine Hundred Forty-Five Dollars (\$9,945) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The City has paid Seven Thousand Nine Hundred Fifty-Six Dollars (\$7,956) of the administrative penalty and One Thousand Nine Hundred Eighty-Nine Dollars (\$1,989) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the City to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City has contracted with Enprotec / Hibbs & Todd engineering company to prepare a Preliminary Engineering Report ("PER") detailing the options available and estimated construction cost for improvements to the City's existing wastewater treatment plant ("WWTP") in accordance with USDA Rural Development program guidelines.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0010078001, Effluent Limitations and Monitoring Requirement No. 1, 3, and 6, as documented during a record review conducted on February 8, 2007, as indicated in the table below.

Effluent Violation Table

City of De Leon
TPDES Permit No. WQ0010078001 (Outfall 001)
Docket No. 2007-0359-MWD-E

Permitted Effluent Limits	Monitoring Period End Date							
	November 2005	February 2006	March 2006	April 2006	June 2006	August 2006	Sept. 2006	October 2006
pH Max. Limit of 9.0 Standard Units	C	C	C	C	C	9.36	9.31	9.33
DO Monthly Min. Limit of 4.0 (in mg/L)	C	C	C	C	3.0	C	C	C
BOD Daily Avg. Limit of 30 (in mg/L)	42	35.25	37.5	33.75	C	C	C	C

Avg. = average	mg/L = milligrams per Liter	pH = Standard Units	DO = Dissolved Oxygen
C = compliant	Min. = minimum	Max. = Maximum	BOD = Biochemical Oxygen Demand (5 day)

2. Failed to submit the DMR annual sludge disposal report by September 1 of each year as required by the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17), and TPDES Permit No. WQ0010078001, Sludge Provisions, Reporting Requirements, as documented during a record review conducted on February 8, 2007. Specifically, the annual sludge report for the sludge monitoring period ending July 31, 2006 was due by September 1, 2006.
3. Failed to submit the effluent DMR parameter data, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010078001, Monitoring and Reporting Requirements, Section 1, as documented during a record review conducted on February 8, 2007. Specifically, the total ammonia nitrogen daily average (lbs/day) at Outfall 001 for the monitoring period of November 30, 2005 was not reported.

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of De Leon, Docket No. 2007-0359-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the City shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Submit the revised effluent DMR for November 2005 to indicate the total ammonia nitrogen daily average at Outfall 001; and
 - ii. Submit the annual sludge disposal reports for the monitoring period ending July 31, 2006.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a; and
 - c. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010078001. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

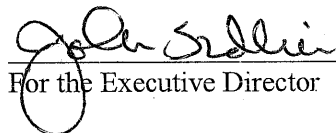
Water Section, Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

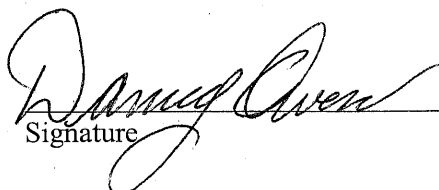
8/27/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

May 16, 2007
Date

DANNY OWEN

Name (Printed or typed)
Authorized Representative of
City of De Leon

MAYOR

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

